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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/336,339	06/18/1999	PAUL DUBELSTEN	2151-51823	7516

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05/03/2002

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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 05/03/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D-12

# Office Action Summary

Application No.

09/330, 339

Applicant(s)

DUBELSTEN et al.

Examiner

M. JARROT

Group Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 4/16/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-167 is/are pending in the application.
- Of the above claim(s) 1-92 + 96-167 is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 93-95 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4-7
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

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1. Applicant's election of Group II, Species B, readable on claims 93-95 in Paper No. 11 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 93-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wold (col. 13, line 7 through col. 14, line 6; see also col. 15, lines 54+ for the use of fines) in view of Radcliffe et al (col. 2, lines 54-64).

The primary reference discloses the basic claimed cellulosic and thermoplastic composite with short flakes near the center and longer flakes toward the surface of the product, Wold failing to teach the presence of the fines in a surface coating layer. Wold discloses the use of fines in secondary products not requiring the strength of what is termed a primary product. However, Radcliffe et al discloses coating wood products with a polymeric composition which would include wood fines, thereby providing a smooth surface and a water and chemical barrier to the wood product. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the product of Wold as taught by Radcliffe et al to obtain a composite with better water and chemical resistance and surface smoothness. The exact thickness of the

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cellulosic fines layer would have been an obvious expedient determined through routine experimentation dependent on overall product dimension and water resistance desired.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Vargot whose telephone number is (703) 308-2621.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

M. Vargot

May 1, 2002

*M. Vargot*  
MATHIEU D. VARGOT  
PRIMARY EXAMINER  
GROUP 1300

*5/1/02*